

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:)	Bankruptcy No. 17-70045-JAD
)	
MICHAEL DAVID SCOTT,)	Chapter 7
Debtor.)	
_____	X	Doc. No.
)	
JAMES R. WALSH, ESQUIRE,)	Related to Doc. No. 270, 316
Trustee of the Bankruptcy Estate)	
of Michael David Scott,)	
Movant,)	
)	
-vs-)	
)	
MICHAEL DAVID SCOTT,)	
Respondent.)	
_____	X	

ORDER ON TRUSTEE'S OBJECTION TO EXEMPTIONS

On June 14, 2017, Chapter 7 Trustee, James R. Walsh, Esquire ("Trustee"), filed his *Objection of the Chapter 7 Trustee to Debtor's Claimed Exemptions and Claimed Amended Exemptions* ("First Objection to Exemptions") (ECF No. 224). A hearing was held on the First Objection to Exemptions on July 13, 2017, at which time the hearing was continued to October 5, 2017.

Subsequent to the filing of the First Objection to Exemptions, Debtor amended his exemptions by filing an amended "*Schedule C: The Property You Claim as Exempt*" ("Amended Exemptions") (ECF No. 270), which was docketed on June 28, 2017. The Trustee objected to the Amended Exemptions by filing dated July 18, 2017 ("Second Objection to Exemptions") (ECF No. 316), and a

hearing on the Second Objection to Exemptions was also scheduled for October 5, 2017. At the October 5, 2017 hearing, it was agreed by the Debtor and Trustee that Debtor's Amended Exemptions supersede the exemptions subject of the First Objection to Exemptions. Thus, the First Objection to Exemptions was effectively mooted as the initial set of exemptions. See Order, ECF No. 415. Thereafter, additional pleadings were filed by both the Trustee and the Debtor addressing the Amended Exemptions. See ECF No. 413, 453, 469, and 488.

On **March 22, 2018**, this Court held a hearing on allowance of the Amended Exemptions, which are summarized as follows:

40 Old Stable Road – with a claimed Homestead Exemption of \$500,000;

8 Tiffany Road - with a claimed exemption in the amount of “100% of the Fair Market Value up to any statutory limits”; and

6 Erick Road, Unit 52 - with a claimed exemption of \$125,000 or \$500,000 of the Fair Market Value.

At the hearing, the Trustee confirmed that he was withdrawing his objection to the Debtor's Amended Exemptions with respect to **40 Old Stable Road** and **8 Tiffany Road**, and therefore the Court hereby allows the Debtor's claimed exemptions in these two properties.

The remaining dispute centered on whether the Debtor was entitled to an exemption with respect to **6 Erick Road, Unit 52**. There is no dispute that this property is owned by the Debtor alone, and occupied solely by the Debtor's mother. After the Court's review of the pleadings, and argument of the Parties, the Court concludes that the Debtor is not entitled to an exemption with respect


to this property. Under either current or prior Massachusetts Law, which the Court addressed on the record, the Debtor is not entitled to claim a Massachusetts Homestead Exemption with respect to 6 Erick Road because: (a) he did not previously, and does not currently reside there; and (b) he was not, and is not entitled to more than one Massachusetts Homestead Exemption. Because this property is not subject to a Massachusetts Exemption, and it is not owned by tenants by the entireties, it is not an allowable exemption under § 522(b)(3) of the Bankruptcy Code. Therefore,

IT IS HEREBY ORDERED that the Trustee's Objection to the Debtor's exemption with respect to 6 Erick Road, Unit 52, is sustained.

IT IS SO ORDERED.

BY THE COURT:

DATED: March 22, 2018



Jeffery A. Deller
Chief U.S. Bankruptcy Judge

cc: Case Administrator to Serve:

Michael David Scott, via regular mail and via email, attention
khite@bop.gov
James R. Walsh, Trustee
Office of the United States Trustee

FILED
3/22/18 2:52 pm
CLERK
U.S. BANKRUPTCY
COURT - WDPA

Imaged Certificate of Notice Page 4 of 5

United States Bankruptcy Court
Western District of PennsylvaniaIn re:
Michael David Scott
DebtorCase No. 17-70045-JAD
Chapter 7**CERTIFICATE OF NOTICE**

District/off: 0315-7

User: bsil
Form ID: pdf900Page 1 of 2
Total Noticed: 1

Date Rcvd: Mar 22, 2018

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Mar 24, 2018.

db +Michael David Scott, 772 Saint Joseph St., c/o FCI Loretto, Loretto, PA 15940-7006

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
NONE. TOTAL: 0

***** BYPASSED RECIPIENTS *****

NONE.

TOTAL: 0

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
USPS regulations require that automation-compatible mail display the correct ZIP.

Transmission times for electronic delivery are Eastern Time zone.

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Mar 24, 2018

Signature: /s/Joseph Speetjens**CM/ECF NOTICE OF ELECTRONIC FILING**

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on March 22, 2018 at the address(es) listed below:

Brett L. Messinger on behalf of Defendant US Bank National Association as Trustee
blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Creditor US Bank National Association as Trustee for Credit Suisse First Boston Mortgage Securities Corp. Mortgage Backed Pass Through Certificates Series 2004-AR-7 and Ocwen Loan Servicing, LLC blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Defendant Ocwen Loan Servicing LLC
blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Defendant U S Bank National Associates as Trustee For Credit Suisse First Boston Mortgage Securities Corp blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Defendant U.S. Bank National Association as Trustee for Credit Suisse First Boston Mortgage Securities Corp. Mortgage Pass Through Series 2004-AR7 blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Plaintiff U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CREDIT SUISSE FIRST BOSTON MORTGAGE SECURITIES CORP., MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2004-AR7 blmessinger@duanemorris.com, LMTryon@duanemorris.com

Brett L. Messinger on behalf of Creditor U.S. Bank, National Association as Trustee Under the Pooling and Servicing Agreement Dated as of May 1, 2006, GSAMP Trust 2006-HE3 Mortgage Pass-Through Certificates Series 2006-HE3 and Ocwen Loan Ser blmessinger@duanemorris.com, LMTryon@duanemorris.com

Denver E. Wharton on behalf of Creditor Khanda, LLC dew@ktwllaw.com, r42123@notify.bestcase.com

Heather A. Sprague on Behalf of the United States Trustee by on behalf of U.S. Trustee Office of the United States Trustee Heather.Sprague@usdoj.gov

James Warmbrodt on behalf of Creditor BANK OF AMERICA, N.A. bkgroup@kmlawgroup.com

James A. Prostko on behalf of Creditor U.S. Bank, National Association, as Trustee, et al... pawb@fedphe.com, james.prostko@phelanhallinan.com

James A. Prostko on behalf of Creditor The Bank Of New York Mellon Trust Company, N.A., et. al. pawb@fedphe.com, james.prostko@phelanhallinan.com

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James R. Walsh jwalsh@spencecuster.com, trustee@spencecuster.com; kpetak@spencecuster.com; rsnyder@spencecuster.com; skosis@spencecuster.com; mskunta@spencecuster.com; jwalsh@ecf.epiqsystems.com; gbivens@spencecuster.com

James R. Walsh on behalf of Trustee James R. Walsh jwalsh@spencecuster.com, trustee@spencecuster.com; kpetak@spencecuster.com; rsnyder@spencecuster.com; skosis@spencecuster.com; mskunta@spencecuster.com; jwalsh@ecf.epiqsystems.com; gbivens@spencecuster.com

Jeremy J. Kobeski on behalf of Creditor The Bank Of New York Mellon Trust Company, N.A., et. al. pawb@fedphe.com

District/off: 0315-7

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Form ID: pdf900

Page 2 of 2
Total Noticed: 1

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The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system (continued)

Jill Locnikar on behalf of Creditor United states of america jill.locnikar@usdoj.gov,
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Ronald E. Reitz on behalf of Plaintiff ROSE AKE rreitz@margolisedelstein.com
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William E. Miller on behalf of Creditor U.S. Bank, National Association As Trustee For et al.
wmiller@sterneisenberg.com, bkecf@sterneisenberg.com
William E. Miller on behalf of Creditor U.S. Bank, National Association as Trustee Under the
Pooling and Servicing Agreement Dated as of May 1, 2006, GSAMP Trust 2006-HE3 Mortgage
Pass-Trough Certificates Series 2006-HE3 C/O Phelan Hallinan wmiller@sterneisenberg.com,
bkecf@sterneisenberg.com

TOTAL: 40